

1 Law Office of Mark McClure, P.S.
1103 W Meeker St, Ste 101
2 Kent, WA 98032
(253) 631-6484
3 mark@mcclurelawgroup.com

Hon. Mary Jo Heston
CHAPTER 13
Hearing Date: June 12, 2025
Hearing Time: 9:00 AM
Response Date: June 5, 2025

4 UNITED STATES BANKRUPTCY COURT
5 WESTERN DISTRICT OF WASHINGTON TACOMA

6 In re

Case No: 25-40406-MJH

7 Michael Ray Cox, Sarah Lacey Cox
8 Debtors,

NOTICE AND MOTION TO AVOID
FINANCIAL ASSISTANCE, INC.'S
JUDICIAL LIEN AGAINST RESIDENTIAL
PROPERTY ONLY WITH PROOF OF
SERVICE

9
10 I NOTICE

11 **PLEASE TAKE NOTICE OF FOREGOING DEBTOR'S MOTION SET AS
FOLLOWS:**

12 JUDGE: Mary Jo Heston; COURTROOM: H

TIME: 9:00 AM

13 PLACE: Tacoma, WA,

DATE: June 12, 2025

14 IF YOU OPPOSE the Motion, you must file your written response with the Clerk's
office of the Bankruptcy Court and deliver copies to the undersigned NOT LATER THAN
15 THE RESPONSE DATE, which is June 5, 2025. If you file a response you are also required
to appear at the hearing.

16 **IF NO RESPONSE IS TIMELY FILED AND SERVED, the Court may, in its
discretion, GRANT THE MOTION PRIOR TO THE HEARING WITHOUT
17 FURTHER NOTICE, and strike the hearing.**

18
19
20
21 NOTICE AND MOTION TO AVOID
22 FINANCIAL ASSISTANCE, INC.'S
JUDICIAL LIEN AGAINST
23 RESIDENTIAL PROPERTY ONLY WITH
PROOF OF SERVICE -- 4

Law Office of Mark McClure, P.S.
1103 W. Meeker Street, Suite 101
Kent, WA 98032
(253) 631-6484

z:\legal ii\2024\bankruptcy\cox, michael and sarah\motions\motions to avoid
judicial liens\2025_05_01 mot avoid judicial lien rev 2024.docx

1 **II. Motion**

2 Debtors, Michael Ray Cox and Sarah Lacey Cox, commenced this case on February
3 25, 2025 by filing a voluntary petition for relief under Chapter 7 of Title 11 of the United
4 States Code.

5 Pursuant to 28 U.S.C. § 1334 and 11 U.S.C. § 522(f), this court has jurisdiction over
6 this motion to avoid a judicial lien(s) held by FINANCIAL ASSISTANCE, INC. against
7 Debtors' real property identified below.

8 FINANCIAL ASSISTANCE, INC. ("Creditor") obtained a Default Judgment in the
9 King County Superior Court under case number 23-2-15367-7 KNT on September 26, 2023.
10 See Attached hereto as **Exhibit A**.

11 Debtors own and have a homestead interest in real property situated in PIERCE
12 County with the address of 2606 16th Ave Ct SW, Puyallup, WA 98371 and legally described
13 as:

14 Property Tax Parcel number: 6021350650

15 LOT 65 OF ORCHARD HILL DIVISION TWO, ACCORDING TO PLAT
16 RECORDED AUGUST 11, 1994 UNDER RECORDING NO. 9408110394, IN
PIERCE COUNTY, WASHINGTON

17 The forgoing real estate is hereinafter referred to as the "subject real estate."

18 Subject real estate is encumbered by a first deed of trust serviced by Evergreen Home
19 Loans in the amount of approximately 579,961.00. Additionally, subject real estate is
20 encumbered by a second deed of trust serviced by Evergreen Home Loans in the amount of

21 NOTICE AND MOTION TO AVOID
22 FINANCIAL ASSISTANCE, INC.'S
JUDICIAL LIEN AGAINST
23 RESIDENTIAL PROPERTY ONLY WITH
PROOF OF SERVICE -- 4

Law Office of Mark McClure, P.S.
1103 W. Meeker Street, Suite 101
Kent, WA 98032
(253) 631-6484

z:\legal ii\2024\bankruptcy\cox, michael and sarah\motions\motions to avoid
judicial liens\2025_05_01 mot avoid judicial lien rev 2024.docx

1 approximately \$573,062.05. See Declaration in Support of Motion for Relief from Stay filed
2 by Evergreen Home Loans filed on April 25, 2025 (ECF No. 16).

3 The Debtors reviewed the estimated value of the subject real estate on Zillow.com on
4 or about January 9, 2025 indicating that the value of the subject Real Estate was
5 approximately \$1,100,000.00. See Schedule A of Voluntary Petition signed by Debtors under
6 penalty of perjury and filed on February 25, 2025 (ECF No. 1).

7 The Debtors' interest in the property referred to in this motion and encumbered by
8 this lien has been claimed as fully exempt in the Debtors' bankruptcy case pursuant to RCW
9 6.13.030 in the amount of 100% Fair Market Value up to applicable limits in an allocated
10 amount of \$567,800. See Schedule C of Voluntary Petition signed by Debtors under penalty
11 of perjury and filed on February 25, 2025 (ECF No. 1).

12 The value of the debtor(s)'s real property as of the date that the order for relief was
13 entered and the existence of the creditor's lien on the debtor(s)' real property impairs
14 exemptions to which the debtor(s) would be entitled under 11 U.S.C. Section 522(f) as
15 reasoned in the 9th Circuit case: In Re Chiu 266 B.R. 743 (9 Cir BAP 2001) aff'd 304 F.3d
16 905 (9 Cir 2002).

17 The following table calculates the amount available to the judgment creditor:

Value	\$ 1,100,000.00
Less 1st Mtg	\$ (573,062.05)
Less Homestead	\$ (567,800.00)
Net Non-Exempt	\$ (40,862.05)

21 NOTICE AND MOTION TO AVOID
22 FINANCIAL ASSISTANCE, INC.'S
23 JUDICIAL LIEN AGAINST
RESIDENTIAL PROPERTY ONLY WITH
PROOF OF SERVICE -- 4

Law Office of Mark McClure, P.S.
1103 W. Meeker Street, Suite 101
Kent, WA 98032
(253) 631-6484

z:\legal ii\2024\bankruptcy\cox, michael and sarah\motions\motions to avoid
judicial liens\2025_05_01 mot avoid judicial lien rev 2024.docx

1 In this case, Creditor's judgment lien impairs the Debtors' properly claimed
2 homestead.

3 WHEREFORE, Debtors pray for an Order against FINANCIAL ASSISTANCE, INC.
4 avoiding the lien held by Creditor against the subject real estate, and for such additional or
5 alternative relief as may be deemed just and proper.

6 DATED: May 01, 2025.

/s/ Mark C McClure

Mark C. McClure, WSBA # 24393
Attorney for Debtor(s)

21 NOTICE AND MOTION TO AVOID
22 FINANCIAL ASSISTANCE, INC.'S
23 JUDICIAL LIEN AGAINST
RESIDENTIAL PROPERTY ONLY WITH
PROOF OF SERVICE -- 4

Law Office of Mark McClure, P.S.
1103 W. Meeker Street, Suite 101
Kent, WA 98032
(253) 631-6484

z:\legal ii\2024\bankruptcy\cox, michael and sarah\motions\motions to avoid
judicial liens\2025_05_01 mot avoid judicial lien rev 2024.docx

III. Proof of Service

I declare under penalty of perjury under the laws of the State of Washington that I filed the original of the foregoing with the United States Bankruptcy Court at Seattle and served a true copy thereof on debtor and individuals named below on May 1, 2025, by mailing via regular U.S. mail and or Certified mail (return receipt requested) as indicated below to said individuals copies thereof, contained in sealed envelopes, with postage prepaid, addressed to said individuals at said individuals' last known addresses as set forth below and deposited in the US Mail at Kent, Washington.

<u>Via ECF Notice to:</u>	<u>Via USPS Certified Mail, postage prepaid, return receipt requested:</u>	<u>Via 1st Class Mail to:</u>
Honorable Judge: Christopher M. Alston		FINANCIAL ASSISTANCE, INC. c/o CELLA HECKMAN 24624 132ND ST SE MONROE, WA, 98272-9633
Chapter 7 Trustee: Mark Waldron 6711 Regents Boulevard West Ste B Tacoma, WA 98466		FINANCIAL ASSISTANCE, INC c/o CELLA HECKMAN 24624 132ND ST SE MONROE, WA, 98272-9633
All ECF Enabled Creditors		Retacco Law Offices Attn: Wendy Elizabeth Retacco 30640 Pacific Hwy S Ste C1 Federal Way, WA 98003-4889
		Evergreen Home Loans PO Box 3969 Seattle, WA 98124

Dated May 1, 2025

/s/ Mark C. McClure

Mark C. McClure

NOTICE AND MOTION TO AVOID
FINANCIAL ASSISTANCE, INC.'S
JUDICIAL LIEN AGAINST
RESIDENTIAL PROPERTY ONLY WITH
PROOF OF SERVICE -- 4

Law Office of Mark McClure, P.S.
1103 W. Meeker Street, Suite 101
Kent, WA 98032
(253) 631-6484

z:\legal ii\2024\bankruptcy\cox, michael and sarah\motions\motions to avoid
judicial liens\2025_05_01 mot avoid judicial lien rev 2024.docx